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# Item 4

## Action

### *Proposed Stipulation*

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**Executive Summary:** This item presents a proposed stipulation in Case No. 2019-31, *In the Matter of Gary Benjamin and Alchemy Planning, LLC*.

**Recommended Action:** Approve the proposed stipulation as presented.

**Authors:** Heather Holt, Executive Director  
Richard Platel, Director of Enforcement

**Presenters:** Richard Platel, Director of Enforcement  
Stephen Colon, Senior Investigator

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## *Proposed Stipulation*

*In the Matter of Gary Benjamin and Alchemy Planning, LLC (Case No. 2019-31)*

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### **A. Introduction**

This case involves allegations of failing to register and report lobbying activities by Gary Benjamin (Benjamin), the sole proprietor of Alchemy Planning, LLC (Alchemy). Benjamin and Alchemy, who declined to be represented by counsel, have agreed to a proposed stipulation admitting the violations, and we recommend that the stipulation be approved. A copy of the stipulation, which provides additional details and represents the agreements between the parties, is provided in Attachment A.

### **B. Law**

The Municipal Lobbying Ordinance (MLO) requires persons who qualify as lobbying entities to register with the Ethics Commission and to report their lobbying activities. Los Angeles Municipal Code (LAMC) §§ 48.01 *et seq.*

A lobbyist is an individual who is compensated to spend 30 or more hours in a consecutive three-month period engaged in lobbying activities that include at least one direct communication with a City employee for the purpose of attempting to influence any substantive legislative or administrative City matter on behalf of another person. LAMC § 48.02.

A lobbying firm is an entity that has a partner, owner, shareholder, officer, or employee who qualifies as a lobbyist and that receives or becomes entitled to receive at least \$1,000 in compensation during a consecutive three-month period for engaging in lobbying activities in an attempt to influence a City matter on behalf of another person. LAMC § 48.02. A sole proprietorship whose owner's activities meet the definition of a lobbyist is a lobbying firm. *Id.*

Lobbyists and lobbying firms must register with the Ethics Commission within 10 days after the end of the calendar month in which they qualify as a lobbying entity. LAMC § 48.07(A). In addition to registering, lobbying entities must also file quarterly disclosure reports for every calendar quarter during which they retain that status. LAMC § 48.08(A)(1).

A lobbyist who owns a sole proprietorship lobbying firm is required to file just one report, as a lobbying firm, for each quarter. *Id.* Quarterly reports by lobbying firms must identify, among other things, information about each client, a description of each City matter that the firm or its lobbyists attempted to influence, the total amount of payments received from each client, and total expenses incurred by the firm in connection with their attempts to influence City matters. LAMC §§ 48.08(C)(3),(7).

The requirement that lobbying entities disclose their lobbying activities is borne out of the public's interest in identifying "interests which attempt to influence decisions of City government, as well as the means employed by those interests." LAMC § 48.01(B)(2). This transparency helps to ensure both the integrity of and the public's confidence in City government. Failure to report lobbying activities circumvents these important goals.

## **C. Facts**

Benjamin, a former planning deputy for City Council District (CD) 13, is the sole owner of Alchemy, a planning and land use consulting business specializing in complex entitlement approvals and advocacy. Benjamin worked for CD 13 from July 2013 to September 2015 and, after leaving City service, worked for a registered City lobbying firm prior to forming Alchemy.

After receiving a complaint alleging that Alchemy had engaged in undisclosed lobbying activities, enforcement staff initiated an investigation. Benjamin provided documents and information detailing his activities during the relevant period. Based on that information, enforcement staff determined that, from the second quarter of 2017 through the second quarter of 2019, Alchemy received at least \$1,000 in compensation in consecutive three-month periods to represent the interests of its clients regarding City planning and land use matters. Also during that time period, Benjamin engaged in at least 30 hours of lobbying activities in consecutive three-month periods on behalf of Alchemy clients, including direct communications with City officials.

As a result, Benjamin qualified as a lobbyist, and Alchemy qualified as a lobbying firm in 2017, 2018, and 2019. Therefore, Benjamin was required to register himself and Alchemy and to file quarterly reports on behalf of Alchemy. Benjamin failed to register and report their activities as lobbying entities during the time period at issue, but he has since registered and filed the required quarterly reports.

## **D. Penalty**

The maximum administrative penalty for a violation of the MLO is the greater of \$5,000 or three times the amount that was improperly reported, spent, or received. Los Angeles City Charter § 706(c)(3). In this case, Benjamin and Alchemy face a maximum penalty of up to \$75,000 (\$5,000 x 15 counts). We recommend resolving this case by approving the stipulated penalty of \$37,500.

We believe the recommended penalty is appropriate, given the relevant circumstances of the case. *See* Los Angeles Administrative Code (LAAC) § 24.27(h)(2). In aggravation, the violations are serious. *See* LAAC § 24.27(h)(2)(A). Staff also notes that Benjamin did not consult the Ethics Commission about how to comply with the laws, despite knowing that the City regulates lobbying. *See* LAAC § 24.27(h)(2)(C).

In mitigation, Benjamin and Alchemy cooperated with the investigation, saved Ethics Commission resources by entering into a stipulated settlement prior to the preparation of a probable cause report, and have registered and filed all required disclosure reports. They have

no prior enforcement history with the Ethics Commission, and staff found no evidence of a deliberate violation or an intent to conceal or deceive. *See* LAAC §§ 24.27(h)(2)(B),(D)-(F).

The staff supports the recommended penalty, which is designed to promote the equitable treatment of similar respondents, encourage the early resolution of cases, and reflect the serious nature of the violations.

Benjamin agreed to the recommended penalty but requested an extended payment schedule. In support of his request, Benjamin has provided bank statements and tax records to Ethics Commission staff. Based on the financial documents submitted, staff supports the request and recommends the following one-year payment plan: an initial payment of \$7,250 (already received), plus 11 payments of \$2,750 to be paid by the first day of every month, beginning January 1, 2020, and ending November 1, 2020.

*Attachment:*

*A Proposed stipulation in Case No. 2019-31 (Gary Benjamin and Alchemy Planning, LLC)*

RICHARD A. PLATEL, SBN 163455  
Director of Enforcement  
Los Angeles City Ethics Commission  
200 North Spring Street  
City Hall, 24th Floor  
Los Angeles CA 90012  
(213) 978-1960

Complainant

BEFORE THE LOS ANGELES CITY ETHICS COMMISSION

In the Matter of:

GARY BENJAMIN and ALCHEMY  
PLANNING, LLC,

Respondents.

Case No. 2019-31

**STIPULATION AND ORDER**

Richard A. Platel, Director of Enforcement of the Los Angeles City Ethics Commission (Ethics Commission), and Gary Benjamin and Alchemy Planning, LLC (respondents) agree to the following:

1. This stipulation will be submitted to the Ethics Commission members for consideration at their next meeting.
2. If approved by the Ethics Commission members, this stipulation and the accompanying order will be the final disposition of this matter with respect to the respondents.
3. The respondents understand and knowingly and voluntarily waive all procedural rights under Los Angeles City Charter (Charter) §§ 706 and 709 and Los Angeles Administrative Code §§ 24.26 and 24.27. These rights include but are not limited to receiving an accusation, having the Ethics Commission members or an impartial administrative law judge hear the matter, personally appearing at an administrative hearing, confronting and cross-examining witnesses testifying at a hearing, and subpoenaing witnesses to testify at a hearing.
4. The respondents understand and knowingly and voluntarily waive all rights to seek judicial review of any action by the Ethics Commission on this matter.
5. The exhibit that is attached and incorporated by reference is a true and accurate summary of the facts in this matter. The respondents violated City law as described in the Exhibit.

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STIPULATION AND ORDER

Case No. 2019-31 (Gary Benjamin and Alchemy Planning, LLC)

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6. The respondents will pay a total penalty in the amount of **\$37,500**. On or before December 2, 2019, the respondents will make an initial payment of **\$7,250**, which will be held by the Ethics Commission staff until the Ethics Commission members issue the order in this matter. For the remaining **\$30,250** the respondents will pay **\$2,750**, on or before the first of each month, beginning on January 1, 2020, and ending on November 1, 2020.

7. All payments will be made in the form of a cashier's check payable to the "General Fund of the City of Los Angeles." Failure to make a required payment will render the entire balance immediately due and payable. In addition, the Ethics Commission staff may renew its enforcement action against the respondent, and the Director of Enforcement may seek sanctions.

8. If the Ethics Commission members refuse to accept this stipulation, it will become null and void. Within ten business days after the Ethics Commission meeting at which the stipulation is rejected, the Ethics Commission staff will return all payments tendered by the respondents in connection with this stipulation.

9. If the Ethics Commission members reject the stipulation and a full evidentiary hearing becomes necessary, the stipulation and all references to it are inadmissible, and the Ethics Commission members, executive director, and staff will not be disqualified because of prior consideration of this stipulation.

DATED: 12/9/2019

  
RICHARD A. PLATEL  
Director of Enforcement  
Los Angeles City Ethics Commission  
Complainant

DATED: 12/9/19

  
ALCHEMY PLANNING, LLC  
Respondent

By: Gary Benjamin, Sole Proprietor

DATED: 12/9/19

  
GARY BENJAMIN  
Respondent

**ORDER**

The Los Angeles City Ethics Commission considered the stipulation in Case No. 2019-31 at its meeting on December 10, 2019. The members of the Ethics Commission approved the stipulation and order Gary Benjamin and Alchemy Planning, LLC to pay a fine of **\$37,500** to the City of Los Angeles in accordance with the terms of the stipulation.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Melinda Murray, President  
Los Angeles City Ethics Commission

## EXHIBIT

### I. INTRODUCTION

This case arose from a whistleblower complaint. Gary Benjamin (Benjamin) and Alchemy Planning, LLC (Alchemy), who chose not to be represented by legal counsel in this matter, admit that they violated City law by failing to register as a lobbyist and a lobbying firm and failed to file quarterly lobbying firm disclosure reports from the second quarter of 2017 through the second quarter of 2019.

### II. APPLICABLE LAW

Lobbying in the City and the disclosure of lobbying activities is governed by the Municipal Lobbying Ordinance (MLO) (Los Angeles Municipal Code (LAMC) §§ 48.01 *et seq.*).

A lobbyist is an individual who is compensated to spend 30 or more hours in a consecutive three-month period engaged in lobbying activities that include at least one direct communication with a City official or employee for the purpose of attempting to influence municipal legislation on behalf of another person. LAMC § 48.02. Municipal legislation is, essentially, any substantive legislative or administrative matter that is proposed or pending before a City agency. *Id.* A direct communication includes activities such as talking or corresponding with a City official and providing testimony at a public meeting. *Id.*

A lobbying firm is an entity that receives or becomes entitled to receive at least \$1,000 in compensation for engaging in lobbying activities during a consecutive three-month period in an attempt to influence municipal legislation on behalf of another person and has a partner, owner, shareholder, officer, or employee who qualifies as a lobbyist. LAMC § 48.02. A sole proprietorship whose owner's activities meet the definition of a lobbyist is a lobbying firm. *Id.*

A lobbyist must register with the Ethics Commission within 10 days after the end of the calendar month in which the individual qualifies as a lobbyist. LAMC § 48.07(A). A lobbying firm must register with the Ethics Commission within 10 days after the end of the calendar month in which an owner qualifies as a lobbyist. *Id.*

In addition to registering, lobbying entities must also file quarterly disclosure reports with the Ethics Commission for every calendar quarter during which they retain that status. LAMC § 48.08(A)(1). However, an individual who qualifies as both a lobbyist and a lobbying firm is required to file just one report, as a lobbying firm, for each quarter. *Id.*

The requirement that lobbying entities disclose their activities is borne out of the public's "right to know the identity of interests which attempt to influence decisions of City government, as well as the means employed by those interests." LAMC § 48.01(B)(2). This transparency helps to ensure both the integrity of City government and the public's confidence. Failure to report such activities circumvents these important goals.

### **III. FACTS**

Benjamin is the sole owner of Alchemy, a planning and land use consulting business that focuses on complex entitlement approvals and advocacy. Alchemy is a sole proprietorship and has no staff other than Benjamin. After receiving a complaint that Alchemy had engaged in unreported lobbying activities, enforcement staff initiated an investigation, which revealed evidence of the following.

From July 2013 to September 2015, Benjamin worked as a planning deputy for City Council District 13. He launched Alchemy after leaving City service and after working for a lobbying firm that was registered with the City.

In 2017, 2018, and 2019, Benjamin was paid to engage in 30 or more hours of lobbying activities in a consecutive three-month period and to engage in direct communications with City officials to further the interests of Alchemy clients. From the second quarter of 2017 through the second quarter of 2019, Benjamin met with a variety of City officials, including staff in elected offices.

Benjamin's lobbying activities met the registration threshold in April 2017, January 2018, and January 2019. Accordingly, Benjamin should have registered as a lobbyist by May 10, 2017, and should have done the same by February 10 of the following two years.

Alchemy received \$209,165 from clients for City lobbying activities during this time period, including \$18,940 in the second quarter of 2017, \$17,935.50 in the first quarter of 2018, and \$37,036 in the first quarter of 2019. Because Alchemy received at least \$1,000 for lobbying activities in a three-month period during which its owner qualified as a lobbyist, Benjamin also should have registered Alchemy as a lobbying firm in each of those years.

Benjamin was a lobbyist and Alchemy was a lobbying firm from April 1, 2017, through June 30, 2019. For each quarter during that time period, Benjamin should have filed a lobbying firm report to disclose his and Alchemy's lobbying activities.

Neither Benjamin nor Alchemy was registered with the Ethics Commission at the time of the complaint. When contacted by enforcement staff, Benjamin said he believed his business activities did not constitute lobbying, based on advice he had sought from a colleague. After discussing his activities with investigators and reviewing the regulations, Benjamin acknowledged that he and Alchemy should have registered and filed disclosure reports with the Ethics Commission.

### **IV. VIOLATIONS**

Benjamin and Alchemy admit that they violated City law as follows:

**COUNTS 1 – 3:  
FAILURE TO REGISTER AS A LOBBYIST**

COUNT 1: Benjamin violated LAMC § 48.07(A) by failing to register as a lobbyist in 2017.

COUNT 2: Benjamin violated LAMC § 48.07(A) by failing to register as a lobbyist in 2018.

COUNT 3: Benjamin violated LAMC § 48.07(A) by failing to register as a lobbyist in 2019.

**COUNTS 4 – 6:  
FAILURE TO REGISTER AS A LOBBYING FIRM**

COUNT 4: Alchemy violated LAMC § 48.07(A) by failing to register as a lobbying firm in 2017.

COUNT 5: Alchemy violated LAMC § 48.07(A) by failing to register as a lobbying firm in 2018.

COUNT 6: Alchemy violated LAMC § 48.07(A) by failing to register as a lobbying firm in 2019.

**COUNTS 7 – 15:  
FAILURE TO FILE DISCLOSURE REPORT**

COUNT 7: Benjamin and Alchemy violated LAMC § 48.08(A)(1) by failing to file a lobbying firm quarterly disclosure report for the second quarter of 2017.

COUNT 8: Benjamin and Alchemy violated LAMC § 48.08(A)(1) by failing to file a lobbying firm quarterly disclosure report for the third quarter of 2017.

COUNT 9: Benjamin and Alchemy violated LAMC § 48.08(A)(1) by failing to file a lobbying firm quarterly disclosure report for the fourth quarter of 2017.

COUNT 10: Benjamin and Alchemy violated LAMC § 48.08(A)(1) by failing to file a lobbying firm quarterly disclosure report for the first quarter of 2018.

COUNT 11: Benjamin and Alchemy violated LAMC § 48.08(A)(1) by failing to file a lobbying firm quarterly disclosure report for the second quarter of 2018.

COUNT 12: Benjamin and Alchemy violated LAMC § 48.08(A)(1) by failing to file a lobbying firm quarterly disclosure report for the third quarter of 2018.

COUNT 13: Benjamin and Alchemy violated LAMC § 48.08(A)(1) by failing to file a lobbying firm quarterly disclosure report for the fourth quarter of 2018.

COUNT 14: Benjamin and Alchemy violated LAMC § 48.08(A)(1) by failing to file a lobbying firm quarterly disclosure report for the first quarter of 2019.

COUNT 15: Benjamin and Alchemy violated LAMC § 48.08(A)(1) by failing to file a lobbying firm quarterly disclosure report for the second quarter of 2019.

## V. PENALTY

Los Angeles City Charter § 706(c)(3) establishes the penalty formula for administrative actions taken by the Ethics Commission. The maximum penalty is the greater of \$5,000 for each violation or three times the amount that was improperly reported, spent, or received. Based on the facts and circumstances in this case, Benjamin faces a maximum penalty of up to \$75,000 (\$5,000 per count).

The Ethics Commission is required to consider all relevant circumstances before assessing penalties. Los Angeles Administrative Code (LAAC) § 24.27(h)(2). In considering the penalty in this case, Ethics Commission staff noted that Benjamin did not consult Ethics Commission staff about how to comply with the law, despite knowing that the City regulates lobbying. *See* LAAC § 24.27(h)(2)(C). Staff further noted, as an aggravating circumstance, that the violations in this case are serious. *See* LAAC § 24.27(h)(2)(A).

However, enforcement staff also noted the following mitigating circumstances: (1) Benjamin and Alchemy cooperated with the investigation and saved Ethics Commission resources by entering into this stipulated settlement at an early stage, prior to the preparation of a probable cause report; (2) Benjamin and Alchemy registered and filed all required disclosure reports within 30 days of being contacted by staff; (3) Benjamin and Alchemy have no prior enforcement history with the Ethics Commission; and (4) enforcement staff found no evidence of a deliberate violation or an intent to conceal or deceive. *See* LAAC §§ 24.27(h)(2)(B), (D)-(F).

Based on the facts and circumstances, staff recommends resolving this case by imposing a \$37,500 penalty. The recommended penalty is intended to promote the equitable treatment of respondents, encourage the early resolution of violations, and reflect the serious nature of the violations.